

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Civil Writ Petition No.16871 of 2010

Date of Decision: *September 20, 2010*

Victor Robinson

.....PETITIONER(S)

VERSUS

State Information Commission, Haryana & Others

.....RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE AJAI LAMBA

PRESENT:- Mr. Hari Om Attri, Advocate, for
the petitioner.

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AJAI LAMBA, J (Oral)

1. This civil writ petition has been filed under Article 226/227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus, directing the respondents to supply information to the petitioner in terms of Section 7 of the Right to Information Act, 2005 (for short, 'the Act').

2. Learned counsel contends that the petitioner made an application seeking information under Annexure P-1. The petitioner made deposit of the amount required to be deposited and the application was in accordance

with the Act and Rules. Respondent No.3 i.e. State Public Information Officer, Office of Commissioner & Director General, School Education, failed to supply the information as provided under Section 7 of the Act. Constrained with the circumstances, the petitioner preferred an appeal under Section 19 of the Act. Copy of grounds of appeal has been placed on record as Annexure P-4. Petitioner, however, did not receive any response to his appeal. In such circumstances, the petitioner approached respondent No.1 i.e. State Information Commission, Haryana, vide Complaint dated 30.7.2010 (Annexure P-6). Till date, the petitioner has not received any intimation even from the State Information Commission. Learned counsel contends that statutory authorities have failed in discharge of their functions and therefore, a writ in the nature of mandamus is required to be issued.

3. I have considered the contentions of learned counsel.

4. The provisions of Sections 7(1), 19(1) and 19(3) of the Act are reproduced hereunder:-

“7. Disposal of request.-(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or

State Public Information Officer, as the case may be on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

xx xx xx xx xx

19. Appeal.- (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) xx xx xx xx

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.”

5. Perusal of Section 7(1) of the Act indicates that the Public Information Officer, on receipt of request for information, is required to supply the same *as expeditiously as possible and in any case within 30 days of the receipt of request*. In case the request is to be rejected,

the same is also required to be done within the time frame provided. In case a person does not receive decision under the provisions of Section 7 of the Act or that person is aggrieved by decision of the Public Information Officer, he is given liberty to prefer an appeal within 30 days. Provision of second appeal before the State Information Commission has been given within 90 days from the date of which decision should have been made, or was actually received.

6. It is the pleaded case of the petitioner that the required information was not given. The petitioner preferred appeal, however, even the appellate authority failed to take decision on the appeal of the petitioner. Constrained with the circumstances, petitioner filed a complaint before the State Information Commission, Haryana. Even the State Information Commission has not taken any notice of the complaint.

7. Since it is the pleaded case that statutory authorities are seized of the matter, however, no decision has been conveyed, it would not be appropriate for the writ Court to take on the task of the authorities, and issue directions, in the peculiar facts and circumstances of the case. The authorities

however are required to ensure that appropriate action is taken on an application/ appeal/ complaint brought before them. The appellate Forum or the second appellate Forum under Section 19(1) or under Section 19(3) of the Act is required to deal with the appeal/ complaint/ second appeal also with expediency.

8. Spirit of the Act provides that information should be provided to the person who seeks information, as expeditiously as possible. Rather provisions of Section 7(1) of the Act provide that it is mandatory for the authority to either reject the request or provide information within 30 days. Even the appellate Forums under the provisions of Section 19 of the Act are required to deal with the issue and dispose of the same as expeditiously as possible. Merely because no time frame has been provided under the provisions of Section 19 of the Act, as extracted above, it would not mean that the appellate Forum can sleep over the issue or not deal with the issue for a long period of time. Following the spirit of the Act, the appellate Forums under Section 19 of the Act, are required to issue appropriate directions to the Public Information Officer as required under the Act.

9. Considering the facts and circumstances of the case, respondent No.1, State Information Commission, Haryana, is directed to deal with complaint, Annexure P-6, and pass orders as required by law within a period of 30 days of receipt of a certified copy of this order.

10. The petitioner is directed to remain present before the State Information Commission, Haryana (respondent No.1) on 4.10.2010.

11. The petition is disposed of with the above directions.

September 20, 2010

(AJAI LAMBA)
JUDGE

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1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?